IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 702 OF 2005
IN
Notice of motion no. 1959/2005
IN
S.C. SUIT NO. 2168 of 2005

Mr. Rajaram Ramdular Sharma ..Appellant.

Versus

Shri Subhash Baburao Alulkar & Anr. ..Respondents.

Mr. Indu Prakash h/f. L.S. Shukla for the Appellant.

CORAM : B.H. MARLAPALLE, J.
DATED : 08TH SEPTEMBER,2005.

P.C.:

1. This appeal arises from an ad-interim order passed by the learned Judge of the City Civil Court on 16.5.2005 in S.C.Suit No. 2168/2005 from which notice of motion was moved for temporary injunction. While the plaintiff was directed to register the motion and made returnable on 13.06.2005, the learned Judge held that ad-interim order in terms of prayer clause (a) could not be granted. Thus the notice of motion is pending for the last more than two months.

2. The learned counsel for the appellant/ plaintiff states that the defendants are not appearing before the trial court and defendant No.1 is presently

in possession of the suit property i.e. the land admeasuring about 3000 sq.ft. from survey No. 102, Hissa No. 1 and corresponding to city survey No. 135, situate at Bunder Pakhadi village in Borivali Taluka. The plaintiff apprehends that the defendant No.1 may create third party interest in the suit property pending the hearing and decision on the said notice of motion. This apprehension need not be entertained against the ad-interim order.

3. The learned counsel for the appellant states that the notice of motion would appear before the trial court on 7th October, 2005 and it is possible that the defendant No.1 may not appear and create third party interest in respect of the suit property. He, therefore, seeks protection until the next date.

4. The appeal is disposed of with directions to the trial court to decide the pending notice of motion in S.C.Suit No.2168/2005 as expeditiously as possible. Status-quo as at present be maintained in respect of the suit property until 7th October, 2005.

5. Civil application No. 801 of 2005 does not survive.

DT.08.09.05 (B.H.Marlappalle,J)

.....